

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LANCASTER SCHOOL DISTRICT.

OAH CASE NO. 2014050790

AMENDED ORDER PARTIALLY
GRANTING NOTICE OF
INSUFFICIENCY AS TO NON-
EXPEDITED PORTION OF
STUDENT'S COMPLAINT

On June 3, 2014, Student filed an amended due process hearing request (complaint) with OAH but did not serve District. On June 6, 2014, District received notice an amended complaint was filed when it received a scheduling order issued by OAH. On June 18, 2014, District filed a notice of insufficiency (NOI) requesting that Student's entire amended complaint be dismissed on the ground that it failed to comply with the notice pleading requirements of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq. (IDEA).)

Student's complaint contains two paragraphs, which include a claim relating to a manifestation determination, thus requiring an expedited hearing on that claim.

a. *Expedited claims.*

As a preliminary matter, District's NOI is inapplicable to Parent's appeal of District's manifestation determination because the expedited hearing schedule does not accommodate challenges to the sufficiency of pleadings afforded to non-expedited due process hearing requests. (71 Fed. Reg. 46,725 (2006); 52 IDELR 231 (OSERS 2009).) Accordingly, District's NOI as to Student's expedited claims is denied. The expedited hearing shall proceed as calendared.

b. *Non-expedited claims.*

APPLICABLE LAW

In non-expedited due process hearing requests, the named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

A due process hearing request is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time. These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.” The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes. Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.

DISCUSSION AND ORDER

Here, Student’s amended complaint contains three applicable sentences:

[Student] has not had access to a high quality education her fundamental civil right. The federal government’s role is to protect and promote that civil right. Education Act (ESEA). What is the outcome this far. Lancaster School District has not proved the support necessary to meet this need in [Student’s] civil right to a high quality education.

The amended complaint does not sufficiently describe a problem or the facts relating to the problem. The foregoing three sentences which comprise Student’s amended complaint as to non-expedited claims fail to provide District with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. Rather, Student should have identified what her unique needs were, the Individualized Education Program (IEP) that forms the basis of her complaint, along with the component(s) of the IEP which District has allegedly failed to implement, or the supports and services which District has failed to offer to address her unique needs. Finally, Student’s complaint fails to describe a particular remedy being sought.

Student has already had one opportunity to amend the complaint and failed to meet the required pleading standards as set forth in OAH’s order issued on May 28, 2014. Student’s amended complaint is insufficiently pleaded to state an understandable non-expedited claim under the IDEA because it fails to provide District with the required notice of a description of the problem and the facts relating to the problem. The NOI will be granted as to the non-expedited claims without prejudice to Student’s right to re-file.

Mediator Assistance: A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. Parent is encouraged to contact OAH for assistance if Parent intends to re-submit a due process hearing request.

ORDER

1. Student's complaint is insufficiently pleaded under section Title 20 United States Code 1415(c)(2)(D) as to Student's non-expedited claims. The NOI is granted as to the non-expedited portion of the complaint.

2. All of Student's non-expedited claims are dismissed without prejudice to Student's right to re-file a new complaint that meets the minimum pleading standards as described above.

3. All dates associated with the non-expedited claim are vacated.

4. The expedited hearing shall proceed as calendared pursuant to the prehearing conference order issued by OAH on June 23, 2014.

DATE: June 25, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings